

March 2, 2007

**MINUTES OF THE CITY COUNCIL MEETING HELD March 2, 2007**

A Special meeting of the City Council of the City of Hopewell, Virginia, was held Friday, March 2, 2007, at 5:00 PM in the City Council Chambers, Municipal Building, 300 North Main Street, Hopewell, Virginia.

PRESENT: Steven R. Taylor, Mayor  
Brenda S. Pelham, Vice Mayor  
Christina J. Luman-Bailey, Councilor  
Curtis W. Harris, Councilor  
Kenneth B. Emerson, Councilor  
E. Randy Sealey, Councilor  
N. Gregory Cuffey, Councilor

Robert S. Herbert, Interim City Manager  
Edwin N. Wilmot, City Attorney  
Ann M. Romano, City Clerk

Mayor Taylor opened the meeting at 5:00 PM. Roll call was taken as follows:

Mayor Taylor	-	present
Vice Mayor Pelham	-	present
Councilor Bailey	-	present
Councilor Harris	-	present
Councilor Emerson	-	present
Councilor Sealey	-	present
Councilor Cuffey	-	present

**REGULAR BUSINESS – TO DISCUSS CHAPTER 25 OF THE HOPEWELL CITY CHARTER AND RECONSIDER THE ACTIONS TAKEN ON JANUARY 9, 2007 AND JANUARY 23, 2007 IN REGARD TO THE CITY MARINA**

Councilor Bailey requested the Special Meeting. Its purpose was to discuss Chapter 25 of the Hopewell City Charter and to reconsider the actions taken on January 9, 2007, and January 23, 2007 in regard to the City Marina. The purpose of the Charter and Council's Rules and Procedures is to protect the rights of the citizens and to assure a certain balance of power. On February 19, 2007 two facts were made very clear that were disturbing. (1) Members of the Waterfront Development Committee were concerned with the plans that had been presented as their recommendations and they expressed their concern and there disagreement with those plans that were presented as their recommendations. (2) It was stated very clearly that the Dock Commission had never been consulted on those plans that were presented as recommendations and which Council adopted.

Councilor Bailey read Chapter 25 of the City Charter which describes the responsibility of the Dock Commission as follows:

***“Sec. 1. Generally.***

*There shall be a dock commission, whose number, qualifications, period of service, compensation and duties shall be such as the said council may prescribe.*

***Sec. 2. Composition; residence requirement for and appointment of members.***

*The said dock commission shall consist of five members, who shall be residents of the city of Hopewell, and who shall be appointed by a majority vote of the whole shall be appointed by a majority vote of the whole membership of the city council as hereinbefore provided.*

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**Sec. 3. Duties.**

*It shall be the duty of the said dock commission to develop, govern and maintain a port and harbor for the said city, and to that end:*

- (a) To delimit and fix the harbor and port lines, having regard to the acts of [the] Congress of the United States pertaining thereto, and in so doing to have regard for the depths and widths of the James and Appomattox Rivers, to the probable future growth of commerce, the location of terminals, piers, wharves and docks.*
- (b) To fix and determine head and bulkhead lines, having regard to federal regulations governing the same.*
- (c) To acquire all necessary land or property for the purpose of developing port facilities.*
- (d) To improve, maintain and operate municipal wharves, docks, terminals, slips, warehouse elevators, tracks and railroad and steamship facilities.*
- (e) To fix the rates of, to charge and collect reasonable wharfage fees, tolls or dues for the use of municipal terminals, warehouses or facilities.*
- (f) To appoint a harbor master for the port or harbor of the city of Hopewell, whose qualifications, tenure of office and compensation shall be such as the council may ordain, and whose duties, powers and responsibilities shall be such as is provided by the general law of the commonwealth."*

If Council wishes to change the Charter, it must go to the General Assembly. The importance is to maintain a balance of power in the City. The duties and responsibilities of the School Board and the Planning Commission are also outlined in the City Charter. By Charter the Dock Commission must be consulted on issues regarding the marina.

Councilor Bailey read a letter that was distributed to all members of City Council at the January 23, 2007 Council meeting. Boat owners who attended the meeting and committee members left the meeting believing that there would be more discussion on the removal of the M dock roof before any action would be taken (since the only vote taken was a tied vote --2 yays, 2 nays and one abstension).

*"Dear Members of City Council:*

*It is my understanding that you might be once again discussing the marina at your January 23, 2007 meeting. I will not be able to attend because of my work schedule so I hope that you will consider this letter in my absence.*

*Let me start by stating that I own two boats. Both are registered in Hopewell and I pay the taxes to the City. I appreciate that you want the waterfront area to be a place that will enhance the City of Hopewell. I do not think that taking the roofs off of N, M, or L docks makes a difference at all. I bought my boat at Smith Mountain Lake from a marina that had all covered slips and it is one of the best looking marinas I have ever been to.*

*I attended the Waterfront Development Committee meeting on January 15, 2007 and was pleased to see that the committee decided not to pursue taking the roof off of M dock at this time. When asked why they wanted to do away with the roof, they said that the maintenance would be too expensive. When questioned about that, it seemed clear to me that it will be much cheaper to repair or replace the roof than to remove it or put in floating docks. It seems to me that the City would be better served to repair the B*

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*& G [I think he meant K & G] docks so that the City can start receiving the slip rent, instead of losing slip rent, if the roof comes off of M dock.*

*Thank you for taking the time to read this letter and considering the fact that covered slips are important to the Marina.*

*Sincerely, Ray Lawrence”*

It would only be fair to allow the Dock Commission to give their input regarding the Marina. They have a meeting planned for next Tuesday, March 6, 2007. In the meantime, the roof removal is scheduled to begin on Monday, March 5. Councilor Bailey asked the Council to hold off until the Dock Commission has an opportunity to review the plans. Gerald Stokes, Dock Commission member, could not be at the Special Meeting, and urged Council to hold off on roof removal.

City Attorney Wilmot emphasized that City Council has the ultimate authority over the Dock Commission. They cannot make decisions contrary to Council's will.

**Motion** was made by Councilor Bailey, and seconded by Vice Mayor Pelham, to delay action approved on January 9 and January 23, 2007, regarding the marina in order to allow discussion and input from the Dock Commission.

Council should not violate its own rules. The Waterfront Development Committee members feel that they were misrepresented to the City Council. The City went to court on Thursday, March 1, 2007. The Judge was very clear. The Department of Recreation & Parks is over the marina and has maintenance problems. The end result is that they [roofs] would all come down. He said that the Waterfront Development Committee lied to Council in their report. There is a factor in the legitimacy in their meeting with us and the Work session and now the last straw is that we did not consult with the Dock Commission. It has been well presented to us but it is the right way to spend the money. It is in our best interest to proceed now. Given the example that Councilor Bailey presented regarding the School Board vs. the Dock Commission. Why wasn't the Dock Commission here? Why didn't they step in? The City Attorney could not explain why they did not address Council. Under state law it is very clear the delineation of the School Board. In Hopewell Council's involvement with the School Board is the selection of the board members and approval of their budget. We do not have that in the case of the Dock Commission. We do not have clear lines of authority with the Dock Commission. If the Dock Commission has so much authority, why was it not brought up on the February 19, 2007 meeting?

Four years ago Councilor Sealey was on the Waterfront Development Committee and the Dock Commission. Jo Turek, Director of the Department of Recreation and parks came up with a punch list of things to do with the marina. At that time Council chose not to follow those recommendations. He has a hard time thinking that the Waterfront Development Committee was that opposed to this. The Waterfront Development Committee came to us and recommended that this be done. He still stands by this recommendation.

The Dock Commission has looked at this. Some of the members disagree. Council has the last word as relates to money. The Dock Commission is chartered as establishing a port; changing the look of the marina. The Judge did way that Council has veto power. The Judge did point out that it does not make sense to have power in the charter but not to pay attention to it. On that note, if you look at our charter it specifies the school board similar to the dock commission, and the planning commission is in the charter. The Dock Commission is in the charter. To improve and maintain the slips. In 2000 Peter Bine, then City Manager, put operation of the marina under the Department of Recreation & Parks in our charter. At the minimum they should be doing it at the Dock Commission. The Dock Commission was never consulted or informed. At the February 19, 2007 meeting of the Waterfront Development Committee, members were concerned that they were not represented (two Dock Commission members on the Waterfront

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Development Commission) about the “M” Dock roof. The Dock Commission has not been consulted at all. Citizens, charter, rules and procedures are what we use as avenues of communication.

**Motion** was made by Councilor Emerson, and seconded by Councilor Sealey to Call for the Question. Upon the roll call, the vote resulted:

Vice Mayor Pelham	-	NO
Councilor Cuffey	-	NO
Councilor Bailey	-	NO
Councilor Harris	-	yes
Councilor Emerson	-	yes
Councilor Sealey	-	NO
Mayor Taylor	-	yes

The motion failed. Debate continued.

On July 1, 2007 Council started off wrong. Council must follow its own rules. The committee has done a great job. There is overlapping of power between Robert’s Rules and the City Charter. The Dock Commission and the Department of Recreation & Parks does maintenance. The Charter comes from the General Assembly but the work is done on the marina. A Work Session must be scheduled to discuss duties of the Recreation & Parks Department vs. the Waterfront Development Committee and the Dock Commission.

**Motion** was made by Councilor Harris, and seconded by Councilor Sealey, to Call for the Question. Upon the roll call, the vote resulted:

Vice Mayor Pelham	-	NO
Councilor Cuffey	-	NO
Councilor Bailey	-	NO
Councilor Harris	-	yes
Councilor Emerson	-	yes
Councilor Sealey	-	yes
Mayor Taylor	-	yes

The motion failed. Debate continued.

There must be a distinction between the Department of Recreation & Parks and the Dock Commission. The Dock Commission is made up of citizens and the Department of Recreation and Parks are employees. Commissions and committees give input from citizens. Peter Bine made decisions to put the marina under Recreation & Parks. Another result in order to have input would be to give some courtesy to the voters. One boater received a letter on February 22, 2007 that they must move their boat by Monday, March 5, 2007. We are presenting a negative image of the City. The Waterfront Development Committee never took an official vote on these plans.

It is interesting to hear we are going against our rules and the judge said we are not.

We were told by Jo Turek that there were slips available. They were reducing the number of boats. She was asking to spend money from the Harbor Fund. The City Attorney will keep Council going in the right direction. Council does follow its own rules.

**Motion** was made by Councilor Emerson, and seconded by Councilor Sealey, to Call for the Question. Upon the roll call, the vote resulted:

Vice Mayor Pelham	-	NO
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Councilor Cuffey	-	yes
Councilor Bailey	-	NO
Councilor Harris	-	yes
Councilor Emerson	-	yes
Councilor Sealey	-	yes
Mayor Taylor	-	yes

Upon the roll call on the original motion made by Councilor Bailey, and seconded by Vice Mayor Pelham, to delay action approved on January 9 and January 23, 2007, regarding the marina in order to allow discussion and input from the Dock Commission, the vote resulted:

Vice Mayor Pelham	-	yes
Councilor Cuffey	-	NO
Councilor Bailey	-	yes
Councilor Harris	-	NO
Councilor Emerson	-	NO
Councilor Sealey	-	NO
Mayor Taylor	-	NO

**CONSIDER AMENDING COUNCIL RULES & PROCEDURES TO REQUIRE THAT A MAJORITY OF CITY COUNCIL JOIN IN THE CALL FOR A SPECIAL MEETING OR NO SUCH MEETING SHALL BE HELD**

**Motion** was made by Councilor Emerson, and seconded by Councilor Cuffey, to resolve to **table** the second portion of the Special Meeting regarding a proposed amendment to Council Rules & Procedures to require that a majority of City Council join in the call for a Special Meeting or no such meeting shall be held. Upon the roll call, the vote resulted:

Vice Mayor Pelham	-	yes
Councilor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes
Councilor Sealey	-	yes
Mayor Taylor	-	yes

**CLOSED SESSION**

At 6:10 PM **motion** was made by Vice Mayor Pelham, and seconded by Councilor Emerson to convene into Closed Session to discuss Personnel (to discuss City Manager Interviews), in accordance with Virginia Code Sec. 2.2-3711 (A)(1). Upon the roll call, the vote resulted:

Vice Mayor Pelham	-	yes
Councilor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes
Councilor Sealey	-	yes
Mayor Taylor	-	yes

**OPEN SESSION**

At 6:54 PM Council convened into Open Session. Councilors responded to the question: "Were the only matters discussed in the Closed Meeting public business matters lawfully exempted from open

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meeting requirements; and public business matters identified in the motion to convene into Closed Session?" Upon the roll call, the vote resulted:

Vice Mayor Pelham	-	yes
Councilor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson		yes
Councilor Sealey	-	yes
Mayor Taylor	-	yes

**ADJOURN**

At 6:55 PM **motion** was made by Councilor Sealey, and seconded by Councilor Harris, to adjourn the meeting. Upon the roll call, the vote resulted:

Vice Mayor Pelham	-	yes
Councilor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson		yes
Councilor Sealey	-	yes
Mayor Taylor	-	yes

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Steven R. Taylor, Mayor

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Ann M. Romano, City Clerk